



**THE COMMONWEALTH OF MASSACHUSETTS**

**Appellate Tax Board**

100 Cambridge Street  
Suite 200  
Boston, Massachusetts 02114

(617) 727-3100  
(617) 727-6234 FAX

**Docket No. F334833**

**TERESA ADAMS**  
**Appellant.**

**v.**

**BOARD OF ASSESSORS OF  
THE TOWN OF SOUTHAMPTON**  
**Appellee.**

**DECISION WITH FINDINGS**

The decision is for the Board of Assessors of the Town of Southampton ("appellee" or "assessors"). After considering the testimony and documentary evidence introduced at the hearing of this appeal, the Presiding Commissioner makes the following findings of fact and rulings of law.

This is an appeal from the assessors' denial of the application for property tax exemption of Teresa Adams ("appellant" or "Mrs. Adams") for fiscal year 2018 under G.L. c. 59, § 5, Clause Twenty-second D ("Clause 22D") for property owned by the appellant as of July 1, 2017 and located at 20 Wolcott Road in Southampton ("subject property"). The assessors valued the subject property at \$282,600 and assessed a tax thereon at a rate of \$16.72 per \$1,000 in the amount of \$4,816.66, inclusive of a Community Preservation Act surcharge. The appellant paid the tax due without incurring interest.

The appellant filed her fiscal year 2018 application for a Clause 22D exemption with the assessors on November 30, 2017. In response, on January 8, 2018, the assessors granted a lesser exemption of \$175 under G.L. c. 59, § 5, Clause Seventeenth. The appellant timely filed a petition with the Appellate Tax Board ("Board") on Monday, April 9, 2018. In her petition, the appellant claimed that she was aggrieved by the assessors' denial because "[t]he deceased veteran was domiciled in MA for 17 consecutive years before entering military service."

Clause 22D exempts from taxation "[r]eal estate to the full amount of the taxable valuation of real property of the surviving spouses of soldiers and sailors, members of the National Guard and veterans who . . . during active duty service, suffered an injury or illness documented by the United States Department of Veterans Affairs or a branch of the armed forces which was a proximate cause of their death." To qualify for the

exemption, "the real estate shall be occupied by the surviving spouse as the surviving spouse's domicile" and "the surviving spouse shall have been domiciled in the commonwealth for the 5 consecutive years<sup>1</sup> immediately before the date of filing for an exemption pursuant to this clause or the soldier or sailor, member of the National Guard or veteran was domiciled in the commonwealth for at least 6 months before entering service." *Id.*<sup>2</sup> The only issue before the Board is whether either Mr. or Mrs. Adams met their respective domicile requirements under Clause 22D.

The appellant is the widow of Roger Adams, Jr. ("Mr. Adams"), who was killed in action in Iraq on June 29, 2009 while serving in the Army National Guard. His death in the line of duty was documented in a Report of Casualty from the Department of the Army. His home of record at the time of entry in the Report of Casualty was listed as Jacksonville, North Carolina. He was survived by Mrs. Adams and their four sons.

Mr. Adams was born in Massachusetts and graduated high school in Massachusetts in 1990. He subsequently left Massachusetts to be with family in Kentucky and then enlisted in the Marine Corps approximately two years later through a recruiting office in Tennessee. He served for thirteen years in the Marine Corps, stationed at Camp Lejeune in North Carolina, and then became a firefighter<sup>3</sup> on the Camp Lejeune Marine Corps base. According to Mrs. Adams, Mr. Adams missed the service so he joined the National Guard in 2007. The active duty service relevant in this matter - the service during which Mr. Adams suffered the injuries that caused his death - was Mr. Adams's service in the Army National Guard, which commenced in 2007. Mr. Adams had served in the Marine Corps but left service and worked as a firefighter in North Carolina prior to joining the Army National Guard. Based upon these facts, the record did not support a finding that Mr. Adams was domiciled in Massachusetts for at least six months before entering service in the Army National Guard, as required by Clause 22D.

Mrs. Adams, originally from Southampton, met Mr. Adams in 1995 when he was visiting Massachusetts during a leave. They married the same year and she moved down to North Carolina where he was stationed. She worked in North Carolina as a firefighter. Mrs. Adams stated that they continued to make visits to Massachusetts and that they talked about living in Massachusetts again when he was out of the military. Mrs. Adams remained in North Carolina after Mr. Adams was killed in 2009 and eventually purchased a house in Southampton on July 25, 2016. The loss of her husband left the appellant

---

<sup>1</sup> The statute was amended, effective November 7, 2018, to substitute "2 consecutive years" for "5 consecutive years." St. 2018, c. 218, § 14.

<sup>2</sup> The exemption is available until a surviving spouse dies or remarries. G.L. c. 59, § 5, Clause Twenty-second D.

<sup>3</sup> Though he worked as a firefighter on the Camp Lejeune Marine Corps base, there is no evidence that this constituted military service. According to the official website of the United States Marines, the Camp Lejeune Fire & Emergency Service Division was established in 1941 and "is presently **comprised of an all civilian professional government employee workforce**. This work force is charged with providing the highest level of Fire and Emergency Services possible to all the military, civilians, and visitors working, living or visiting our base. Our mission is to protect lives and property of all who visit, live, and work within the jurisdiction of Marine Corps Base Camp Lejeune, Marine Corps Air Station New River and provide mutual aid to all surrounding communities." <https://www.mcieast.marines.mil/Staff-Offices/Security-Emergency-Services/Fire-Emergency-Services-Division/> (last visited 8/29/19) (emphasis added).

undecided whether to remain in North Carolina where she and her sons had planted roots or return to Massachusetts. Eventually, when she determined it was best for her sons' education, they returned to Massachusetts. Based upon these facts, the record did not support a finding that Mrs. Adams was domiciled in Massachusetts for the five consecutive years immediately before the date she applied for the exemption, as required by Clause 22D.

The Board conveys nothing but respect for Mr. Adams, his service for this country, and his death in the line of duty, and it acknowledges the profound loss suffered by Mrs. Adams and their four children. But in evaluating the appellant's entitlement to an exemption under Clause 22D, the Board is constrained by the parameters of the statutory provisions as applied to the facts before it. "Exemption from taxation is a matter of special favor or grace" and "will be recognized only where the property falls clearly and unmistakably within the express words of a legislative command." ***Western Massachusetts Lifecare Corporation v. Assessors of Springfield***, 434 Mass. 96, 102 (2001). Statutes granting exemptions are "strictly construed" and the taxpayer seeking the exemption has the burden of demonstrating entitlement to the exemption claimed. ***Springfield Y.M.C.A. v. Assessors of Springfield***, 284 Mass. 1, 5 (1933); ***Global Companies, LLC v. Commissioner of Revenue***, 459 Mass. 492, 494 (2011).

Domicile is generally held "to be the place of actual residence with intention to remain permanently or for an indefinite time and without any certain purpose to return to a former place of abode." ***Commonwealth v. Davis***, 284 Mass. 41, 50 (1933). See also ***Reiersen v. Commissioner of Revenue***, 26 Mass. App. Ct. 124, 124-25 (1988) ("Although where a person is domiciled is mainly a question of fact, the elements to be considered in locating a domicile present a question of law.") (citations omitted). "Ascertainment of the domicile of an individual is mainly a question of fact to be determined from all the evidence and circumstances." ***Commonwealth v. Davis***, 284 Mass. at 49. "A person can have only one domicile at a time, and it is usually the center of the person's domestic, social, and civil life." ***Commonwealth v. Moore***, 44 Mass. App. Ct. 129, 133 (1998). The only obvious domicile of both Mr. and Mrs. Adams during relevant time periods for purposes of the Clause 22D exemption for fiscal year 2018 was North Carolina. As Mrs. Adams declared, they planted roots in North Carolina. They remained there after Mr. Adams left the Marine Corps and worked as a firefighter. Mrs. Adams remained there for an additional seven years after Mr. Adams was killed until she purchased the house in Southampton in 2016. Consequently, there was no evidence that Mr. Adams was domiciled in Massachusetts for at least six months before entering service in the Army National Guard and the earliest Mrs. Adams established domicile in Massachusetts was July 2016, which does not meet the domicile requirement of Clause 22D for fiscal year 2018.

Accordingly, based on the record in its entirety and the relevant law, the Board found that the appellant had not established her entitlement to an exemption under Clause 22D. The Board notes that this decision is not a permanent bar to Mrs. Adams ever receiving an exemption under Clause 22D, only that she had not fulfilled the domicile requirement for fiscal year 2018, the fiscal year before the Board. She could be eligible

for later fiscal years if she meets the domicile requirement and other statutory requirements of Clause 22D.

This is a single-member decision for the appellee promulgated in accordance with G.L. c. 58A, § 1A.

**THE APPELLATE TAX BOARD**

By:   
Steven G. Elliott, Commissioner

Attest:   
Clerk of the Board

Date:  
(Seal) **NOV - 8 2019**

**NOTICE:** Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.